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%16.01.2007

Present: Mr. Anupam Srivastava with Mr. Avinash Kumar, counsel for the appellant.
Mr. Rakesh Tiku with Mr. P. Gautam, counsel for the respondent.

+CM (M) No.30/2007 & CM 267/2007
*

Arguments on order dated 13.11.2006 passed by the Trial Court heard. It is surprising to note that the learned Civil Judge decided the application without hearing the other party. If there was some urgency, short date should have been given by the Civil Judge, an opportunity should have been given to hear the other party and then the application should have been decided on merits.

As agreed by both the parties before this Court, the above said order to the extent that the petitioner and her surety are directed to produce the child on the date fixed, is hereby set aside.

As agreed, the petitioner will give a reply in the Trial Court and the question whether the child should be brought to India or not, be decided on merits. The parties are directed to appear before the learned Civil Judge on 31.01.2007, reply be filed by the respondent on the same day. The court will decide the

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application within fifteen days thereafter.

The appeal and the application are disposed of accordingly.

Nothing contained in this order shall tantamount to the expression of this court on the merits of the case.

Copy of this order be given dasti to both the parties.

January 16, 2007
rkk

J.M. MALIK, J